

REMARKS/ARGUMENTS

Again, applicants thank the Examiner for her Office Action dated January 2, 2004. Claim 16 was previously cancelled without prejudice. **Claims 1-15 and Claim 17** remain and are currently pending in the application. Reconsideration and allowance are hereby requested.

Rejections Under 35 U.S.C. §112

Claims 8-15 and 17 have been rejected under 35 U. S. C. § 112, second paragraph as being indefinite. The applicants respectfully explain that this may not be true. For example, in Claim 8 at lines 8-9, the following language appears: “comparing the first CRC and the received CRC thereby determining whether the encoded message was received with any errors”. The Office Action asserts that this is indefinite.

Referring to Claim 8, the “first CRC value” is clearly specified as being the calculated first CRC value (e.g., at line 5 of Claim 8). Also, the “received CRC” is clearly identified as the “received CRC segment” (e.g., at line 3 of Claim 8). In this embodiment, the received CRC is compared prior to decoding. Thus, for at least this reason, the applicants submit that the rejection under § 112 is inapplicable to Claim 8. Therefore, the applicants request that this ground for rejection be withdrawn as to Claim 8. However, to the extent the Examiner requires further clarifying language in the claims to rectify a perceived ambiguity, applicants are willing consider such amendments.

Accordingly, for at least the forgoing reasons, it is respectfully submitted that the rejections of dependent Claims 9-15 and 17 are similarly inapplicable. Therefore, the applicants also request withdrawal of that this grounds for rejection as to Claims 9-15 and 17.

Rejections Under 35 U.S.C. §103

Claims 1-3 have been rejected under 35 U. S. C. § 103(a) as being unpatentable over *Stevenson* (USPN 6,209,112). For example, the Office Action declares that *Stevenson* teaches all the limitations of Claim 1:

“A method of preparing a data packet for transmission over an interconnect link, the method comprising:

calculating a first CRC value for a payload segment of a data packet;

calculating a second CRC value for a sequence number of the data packet;
combining the first CRC value and the second CRC value thereby creating a third CRC value; and

combining the third CRC value with the payload segment of the data packet thereby creating a transmittable data packet.”

The Applicants assert that *Stevenson* fails to establish a *prima facie* case of obviousness as to the Claim 1 for a number of reasons discussed below. For example, *Stevenson* does not teach “calculating a first CRC value for a payload segment of a data packet”. Specifically, *Stevenson* teaches only that a payload is part of the packet (*Stevenson* 3: 30-31). At most *Stevenson* teaches that a payload segment can have a parity value (*Stevenson* 2: 35-39). Such a “parity value” is not a CRC. Simply, the cited references fail to teach that the payload segment is encoded as a first CRC value.

Additionally, *Stevenson* does not address the issue of a sequence number at all, let alone CRC encoding the sequence number, as required by the claimed invention.

Moreover, *Stevenson* does not teach “combining the first CRC value and the second CRC value thereby creating a third CRC value” nor does it teach “combining the third CRC value with the payload segment of the data packet thereby creating a transmittable data packet”. The portion of *Stevenson* cited as relevant by the Examiner (e.g., 3:45-46) refers to a **comparison** of a package with a payload checksum detect errors. It **does not refer** to a method of **combining** CRC coded information as does the claimed invention. The *Stevenson* reference refers to a method of error detection in a transmitted and received data message. It does not refer to a method of preparing data for transmission as in Claim 1 (e.g., a “method of preparing a data packet for transmission over an interconnect link”). Accordingly, Claim 1 combines data rather than compares data as does the *Stevenson* reference. Thus, it is not believed that the cited reference is applicable to the claimed invention.

Putting aside the fact that the references do not teach or suggest the above limitations of the claimed invention, the Examiner’s asserted grounds for rejection are deficient for several other reasons. Using the guidance provided by the MPEP (e.g., at MPEP §§ 2142 or 2143), the *Stevenson* reference fails to establish a *prima facie* case of obviousness. The MPEP states, in pertinent part, that “[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim

limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Particularly, the initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). If, as in this case, the motivation to combine the teachings of the references is not immediately apparent, it is the duty of the examiner to explain why the combination of the teachings is proper. *Ex parte Skinner*, 2 USPQ2d 1788 (Bd. Pat. App. & Inter. 1986). In the present case, the Office Action has not satisfactorily explained why the suggested modification is proper.

The Office Action states that *Stevenson* (4:23-28) teaches that an "encoded payload and checksum are then combined with a predetermined format to form the datablock". Moreover, Examiner asserts that this exceedingly vague reference teaches the invention. Particularly, it is asserted that this vague reference teaches: "combining the first CRC value and the second CRC value thereby creating a third CRC value" and "combining the third CRC value with the payload segment of the data packet thereby creating a transmittable data packet".

On the contrary, it is respectfully submitted that the cited portion of *Stevenson* is so vague and ambiguous that it teaches nothing which would suggest the detailed operations of the present invention to those having ordinary skill in the art. For example, the Examiner has chosen to construe "format" as a particular process for creating three different CRC's and then combining a third CRC with the payload segment. However, it seems fairly clear that the *Stevenson* reference probably refers to the order in which the data is packaged into a serialized message data stream, not how CRC's are used to process the contents of a data message. Moreover, the "predetermined format" of *Stevenson* does not provide one of ordinary skill in the art sufficient teaching or suggestion to generate three CRC's and then combine them in the manner set forth in the claims. For example, *Stevenson* does not teach encoding the payload with a CRC at all.

The Office Action states, as its sole rationale for holding that the invention is obvious in view of *Stevenson*, that "it would have been matter of design choice to a person of one having ordinary skill in the art, at the time the invention was made, to combine the third CRC value with

the payload segment of the data packet thereby creating a transmittable data packet.” This line of reasoning is expressly forbidden by the case law and the MPEP (e.g., at §2143.01). “The level of skill in the art cannot be relied upon to provide the suggestion to combine references.” *Al-Site Corp. v. VSI Int’l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999)(emphasis added). “A statement that modifications of the prior art to meet the claimed invention would have been “well within the ordinary skill of the art at the time the claimed invention was made” because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references.” *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993)(emphasis original). In the present case, this logic and reasoning has added weight because *Stevenson* teaches no more than that a “predetermined format” (what ever that may mean) forms a datablock. This cannot be construed as teaching one of ordinary skill in the art to:

“calculating a first CRC value for a payload segment of a data packet;
calculating a second CRC value for a sequence number of the data packet;
combining the first CRC value and the second CRC value thereby creating a third CRC value; and

combining the third CRC value with the payload segment of the data packet thereby creating a transmittable data packet.” (Claim 1)

In view of the foregoing, when applied to the standards established in the MPEP, it is respectfully submitted that the cited reference does not establish a *prima facie* case of obviousness as to Claim 1. Therefore, the applicants respectfully request that this ground for rejection be withdrawn as to Claim 1 (and also the claims depending therefrom; e.g., Claims 2-7).

Accordingly, for at least the forgoing reasons, the cited references fail to establish a *prima facie* case of obviousness as to **Claims 2 and 3**. Therefore, the applicants respectfully request that this ground for rejection also be withdrawn as to Claims 2 and 3.

Moreover, as to **Claims 4, 6, and 7** the arguments made in the Office Action add nothing to what has already been said with respect to Claim 1 above. Therefore, for at least the reasons set forth above, it is respectfully submitted that the cited art has failed to establish a *prima facie*

case of obviousness as to claims 4, 6, and 7. Accordingly, the applicants request that this rejection also be withdrawn.

Claim 5 has been rejected under 35 U. S. C. § 103(a) as being unpatentable over *Stevenson* in view of *Sorgi, et al.* (USPN 6,493,847). As before, this rejection is based substantially on the *Stevenson* patent. However, *Sorgi* is offered for the additional teaching that *Sorgi* uses XOR gates. Importantly, *Sorgi* does not overcome the deficiencies inherent in the *Stevenson*. *Sorgi* does not teach or suggest the limitations of:

- “calculating a first CRC value for a payload segment of a data packet;
- calculating a second CRC value for a sequence number of the data packet;
- combining the first CRC value and the second CRC value thereby creating a third CRC value; and

- combining the third CRC value with the payload segment of the data packet thereby creating a transmittable data packet”

Therefore, it is submitted that the combination of *Stevenson* and *Sorgi* fail to establish a prima facie case of obviousness as to Claim 1 (and therefore Claim 5). Consequently, this rejection fails as to Claim 5 and consequently the applicants respectfully request that this grounds for rejection be withdrawn as to Claim 5.

Conclusion:

In view of the foregoing amendments and remarks, it is respectfully submitted that the cited references have failed to establish sustainable rejections of the currently pending claims. Consequently, the applicants respectfully request, that in view of the foregoing remarks, that the Examiner withdraw all pending grounds of rejection. Accordingly, it is submitted that this case is now in condition for allowance.

Should the Examiner, for any reason, wish to contact the undersigned, she is cordially invited to do so at her convenience. Moreover, if the Examiner has any continuing concerns regarding this case, she is invited to contact the undersigned at (831) 655-2300.

Respectfully submitted,

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